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Minn. Stat. § 480A.08, subd. 3 (2016).*

**STATE OF MINNESOTA
IN COURT OF APPEALS
A17-1565**

State of Minnesota,
Respondent,

vs.

Anansa Ashanti McIntosh-Spicer,
Appellant.

**Filed September 17, 2018
Affirmed
Kalitowski, Judge***

Hennepin County District Court
File No. 27-CR-16-2003

Lori Swanson, Attorney General, St. Paul, Minnesota; and

Michael O. Freeman, Hennepin County Attorney, Michael Richardson, Assistant County Attorney, Minneapolis, Minnesota (for respondent)

Cathryn Middlebook, Chief Public Defender, St. Paul, Minnesota; and

Mark D. Nyvold, Special Assistant Public Defender, Fridley, Minnesota (for appellant)

Considered and decided by Ross, Presiding Judge; Reyes, Judge; and Kalitowski, Judge.

* Retired judge of the Minnesota Court of Appeals, serving by appointment pursuant to Minn. Const. art. VI, § 10.

UNPUBLISHED OPINION

KALITOWSKI, Judge

Anansa McIntosh-Spicer challenges her conviction of terroristic threats, arguing that the evidence was insufficient to prove that she made a threat of violence against her son. We affirm.

DECISION

Anansa McIntosh-Spicer asks that we reverse her conviction of terroristic threats because the circumstantial evidence of her son's fear was insufficient to prove that she threatened him with violence. When a criminal conviction rests on circumstantial evidence, we apply a unique standard of review. *State v. Harris*, 895 N.W.2d 592, 598 (Minn. 2017). First, we identify the circumstances proved at trial by resolving all questions of fact in favor of the jury's verdict. *Id.* at 600. When identifying the circumstances proved, we defer to the jury's unique opportunity to judge the credibility of the witnesses and its choice to accept part and reject part of a witness's testimony. *Id.* With the jury's credibility findings intact, we then consider whether any reasonable inference inconsistent with the defendant's guilt can be drawn from the circumstances proved. *Id.* If no reasonable inference inconsistent with guilt can be drawn, the defendant is guilty beyond a reasonable doubt, and we affirm the conviction.

Here, McIntosh-Spicer brandished a knife at her son, A.M., after he struggled to answer a problem in his homework. She moved the knife as though she were going to stab A.M.; she brought it close to his heart, and she said, "I should stab you with this knife, right now." A.M. said that his mother's thrusting the knife at him and telling him that she

should stab him made him afraid that he was going to die that night because he did not know if she was going to do it or not.

The jury heard that A.M. regularly suffered this type of treatment from his mother and step-father. Whenever A.M. would struggle with his homework, they would force him to stand in the “position,” which required A.M. to raise his hands in the air while squatting down and standing on the tips of his toes. He had been whipped with a belt buckle. He also had been choked and lifted from the ground by his neck. Prosecutors brought charges against McIntosh-Spicer after A.M.’s grandmother brought him to the hospital because his arms, back, and thighs were so riddled with bruises that he struggled to remove his jacket.

McIntosh-Spicer contends that the context of her brandishing the knife and stating that she should kill A.M. shows that her actions were reasonably consistent with a hypothesis other than guilt. The crime of which McIntosh-Spicer was convicted criminalizes “threaten[ing] . . . to commit any crime of violence with purpose to terrorize another . . . or in a reckless disregard of the risk of causing such terror.” Minn. Stat. § 609.713, subd. 1 (2014). She correctly notes that “whether a given statement is a threat turns on whether the communication in its context would have a reasonable tendency to create apprehension that its originator will act according to its tenor.” *State v. Schweppe*, 237 N.W.2d 609, 613 (Minn. 1975) (quotations omitted). And we have stated that a statement’s context may indicate anger or frustration inconsistent with criminal intent. *State v. Bjergum*, 771 N.W.2d 53, 56 (Minn. App. 2009). McIntosh-Spicer argues that two circumstances support the inference that she did not act for the purpose of terrorizing A.M. We disagree.

McIntosh-Spicer first points to the part of A.M.'s CornerHouse interview where he stated that his mother "was cutting up some steaks, and she didn't want to really stab me, that's why she didn't stab me." McIntosh-Spicer argues that a victim's reaction to the threat is relevant to the defendant's intent, relying on *Schweppe*, 237 N.W.2d at 614. We agree, but are not convinced that A.M.'s statement described his reaction to his mother's conduct. The CornerHouse interviewer prompted A.M. to "tell [her] all about what happened that time that [A.M.'s] mom had a knife." A.M.'s statement relayed his conclusion about what happened, drawn from the fact that McIntosh-Spicer did not stab him, not his reaction to her conduct at the time of the incident. The record contains better evidence of A.M.'s reaction to McIntosh-Spicer's conduct. At trial, the prosecutor asked A.M., "[H]ow did it make you feel when your mom was poking that knife towards you and saying that she should stab you?" A.M. responded, "I really felt that that night I was going to—I was going to simply die, because I didn't know if she was going to do it or not." Because the jury found McIntosh-Spicer guilty, we resolve the question of which evidence of A.M.'s reaction the jury credited in favor of its verdict. The circumstance proved was that A.M. felt that he might die, not that he knew his mother was not going to stab him. This circumstance reasonably supports only the inference that McIntosh-Spicer acted with the purpose of terrorizing A.M. or in reckless disregard of the risk of causing him terror.

McIntosh-Spicer also argues that the fact that she did not go looking for a knife, but was already holding one to cut up food, shows that she did not make a real threat. But the fact that McIntosh-Spicer was initially holding the knife for some other purpose does not mean she could not have later threatened A.M. with it. In light of the circumstances proved,

it would be unreasonable to conclude that McIntosh-Spicer did not act with the purpose of terrorizing A.M. or in reckless disregard of causing him terror. A.M. testified that after he struggled on the homework, his mother turned to him and thrust the knife in the direction of his heart. A.M. said that she was holding it “like she’s going to cut somebody with the knife” and the knife came “close” to his heart. After this display, McIntosh-Spicer threw the knife, grabbed A.M. by the collar, took him outside into the cold and shook him, before bringing him back inside and throwing him across the counter, saying that she was going to stab him with the knife.

Finally, McIntosh-Spicer does not address the fact that her comments and her brandishing of the knife, when taken in the context of her and her husband’s repeated abuse of A.M., strongly suggest that she was willing to escalate A.M.’s punishments. Thus, drawing an inference inconsistent with a purpose to terrorize, or a reckless disregard of the risk of causing such terror, from the mere fact that McIntosh-Spicer was originally holding the knife for another purpose would be unreasonable.

We conclude that the evidence was sufficient.

Affirmed.